

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Application of:

Powell

Serial No.: 10/725,302

Filed: December 1, 2003

For: Cooling and Power System for a
Medical Imaging System

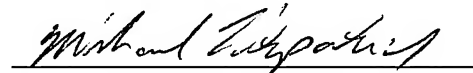
Art Unit: 2882

Examiner: Corbett, John M.

Confirmation No.: 2838

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date: August 6, 2007



Michael J. Fitzpatrick
Reg. No. 48,510

PRE APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reasons stated on the attached sheets.

REMARKS

The present application includes pending claims 1-29, all of which have been rejected. Claims 1-10 and 19-29 stand rejected under 35 U.S.C. § 112, 2nd ¶, as being indefinite. Claims 1, 6-7, and 9-10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Innovative Technology Summary Report (“ITSR”) in view of U.S. Pat. App. Pub. 2002/0181654 to Baertsch *et al.* (“Baertsch”), U.S. Pat. 5,299,249 to Burke *et al.* (“Burke”), and U.S. Pat. App. Pub. 2001/0017908 to Dilick (“Dilick”). Claims 2-5 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over ITSR in view of Baertsch, Burke, Dilick, and U.S. Pat. 5,185,774 to Klostermann (“Klostermann”). Claim 8 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over ITSR in view of Baertsch, Burke, Dilick, and U.S. Pat. 5,226,064 to Yahata *et al.* (“Yahata”). Claims 11-17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over ITSR in view of Baertsch, Yahata, and U.S. Pat. 5,310,361 to Muchowicz *et al.* (“Muchowicz”). Claim 18 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over ITSR in view of Baertsch, Yahata, Muchowicz, and U.S. Reissue Pat. 35,025 to Anderton (“Anderton”). Claims 19-24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over ITSR in view of Baertsch, Burke, Yahata, Dilick, and Muchowicz. Claims 25-28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over ITSR in view of Burke, Klostermann, and Dilick. Claim 29 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over ITSR in view of Burke, Klostermann, Dilick and Yahata. The Applicants respectfully traverse these rejections for at least the following reasons:

Claims 1-10 and 19-29 stand rejected under 35 U.S.C. § 112, 2nd ¶, because they recite (or incorporate) an allegedly indefinite term, “chilled.” However, the term “chilled” is definite. The adjective, “chilled,” is defined as “chilly,” which is further defined as “cold enough to cause shivering” and “seized with cold.” *See Webster’s II New College Dictionary* (2001) (copy at relevant page attached as Tab A to January 10, 2006 Amendment). The Office Action rejects the 2001 definition cited by Applicant, and instead relies on a different, almost fifty year old definition set forth in a dictionary published in 1958. *See Office Action* at p. 20; November 3, 2006, *Office Action*, at p. 19. This is contrary to claim construction principles. *See, e.g., Phillips v. AWH Corp.*, 415 F.3d 1303, 1313 (Fed. Cir. 2005) (“We have made clear, moreover, that the ordinary and customary meaning of a claim term is the meaning that the term would have to a person of ordinary skill in the art in question **at the time of the invention**, i.e., as of the effective filing date of the patent application.”) (emphasis added). *See February 26, 2007 Amendment* at p. 10.

All of claims 1-29 stand rejected under 35 U.S.C. § 103(a) based in part upon non-analogous art, *i.e.*, the ITSR reference. ITSR relates to an industrial x-ray system, which deals with detecting heavy metals in ventilation ducts at U.S. Department of Energy (“DOE”) Complex facilities. *See ITSR* at p. 1. ITSR is not directed to cooling or powering medical imaging systems. *See ITSR* at p. 2. A person of ordinary skill in the art of cooling and powering medical imaging systems would not be led to ITSR. Moreover, there is no suggestion within the other references or within the knowledge of skill in the art for a person of ordinary skill, when attempting to solve the problem of

cooling a medical imaging system, to look to an industrial x-ray system that is used for detecting heavy metals. *See* February 26, 2007 Amendment at pp. 12-13.

The Office Action relies on several secondary references but none of those references discloses the limitation which the Office Action asserts is disclosed.

First, the Office Action relies on Dilick because it allegedly “teaches removably connecting to said imaging device.” Office Action at p. 4. The rejected claims however recite (or incorporate): “an auxiliary module removably connected to said medical imaging device having a cooling unit”. *See* Claim 1. Dilick merely describes connecting oil hoses for circulating “insulating oil” through an x-ray tube housing. *See* Dilick at ¶¶ 9 and 60. *See* February 26, 2007 Amendment at p. 13.

Second, the Office Action relies on Burke because it allegedly “teaches configuring to cool liquid to a chilled state and circulating the liquid to and from said imaging element.” Office Action at p. 4 (citations omitted). Claim 1, however, recites a cooling unit that cools liquid to “a chilled state” and circulates the “chilled liquid.” *See* Claim 1. Burke merely describes a scanning system that circulates cooling fluid through a heat exchanger to keep a target anode cool; it does not describe a cooling unit to cool the fluid to a cooler temperature, let alone a chilled state. *See* Burke at column 5, lines 1-11. *See* February 26, 2007 Amendment at p. 14.

Third, the Office Action relies on Yahata because it allegedly “teaches a booster battery pack, wherein said booster battery pack is configured to be electrically connected to said medical imaging device.” Office Action at p. 9. Yahata, however, does not disclose “an auxiliary module having a booster battery pack... wherein said auxiliary module **is separate, distinct, and removably connected** (*i.e.*, capable of being

disconnected and subsequently reconnected) directly to said medical imaging device” as described in claim 11 of the present application. *See* February 26, 2007 Amendment at pp. 16-17.

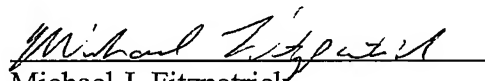
Fourth, the Office Action relies on Muchowicz because it allegedly “teaches removably connecting to said imaging device.” Office Action at p. 10. Muchowicz discloses “a high voltage x-ray cable connection” that would allow two appropriate cables to be removably connected. Muchowicz at column 1, lines 45-50. Muchowicz does not, however, disclose an “auxiliary module is separate, distinct, and removably connected directly to said medical imaging device”, as described by claims 11-17. *See* February 26, 2007 Amendment at p. 17.

The Applicants respectfully submit that the pending claims of the present application define patentable subject matter, and request reconsideration of the objections and rejections. The Commissioner is authorized to charge any necessary fees (including the \$500 fee for the Notice of Appeal), or credit any overpayment to Account No. 07-0845.

Respectfully submitted,

Date: August 6, 2007

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